



American Corn Growers Association

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February 2, 2005

To: Commissioner Michael Powell
Commissioner Kathleen Abernathy
Commissioner Michael Copps
Commissioner Kevin Martin
Commissioner Jonathan Abelstein

Re: EX PARTE
Docket No. CS 98-120
Digital Television Transition

Dear Chairman and Commissioners:

Congress is actively considering many aspects of the ongoing digital television transition and plans to hold hearings to consider the impact of the transition on the people most directly affected – American consumers. On February 10, 2005, the FCC plans to vote on a key element of the digital transition that could deprive consumers of the ability to receive new, innovative and locally oriented programming being developed by television broadcasters for transmission on their digital channels.

By taking this expected action, the FCC will be pulling a single strand out of a very complex tapestry and prejudging important issues in a way that will make Congress's role in managing the digital transition much more complex and difficult and will inhibit, rather than encourage, the transition to digital. The FCC should not be permitted to jump the gun and preempt decision-making on this important issue before the new Congress has had an opportunity to hold even a single hearing.

The vast majority of commercial television stations in the United States have completed the build-out of their digital facilities in full compliance with the schedule established by the FCC. These broadcasters have invested hundreds of millions of dollars in building out their digital facilities with *no* government subsidies and are operating them *now* in tandem with their analog facilities. These new digital facilities make it possible for television stations to broadcast high-definition programming of unparalleled visual quality *and* to offer multiple streams of new programming by using digital compression techniques that enable "multicasting."

These exciting developments are happening *right now*. The major networks offer much of their prime time programming in high-definition, and a number of broadcasters have already begun to develop the full potential of digital broadcasting by offering innovative and locally oriented free programming on their digital multicast channels. For example, the NBC Weather Plus Network, launched in November 2004, offers state-of-the-art local, regional and national weather programming on a portion of the digital channels of NBC-owned stations, as well as affiliated stations owned by such companies as Hearst-Argyle, Belo Broadcasting, Gannett, Raycom and The New York Times Company. The participation of

affiliated stations enables an unprecedented focus on local weather conditions in each station's market combined with breaking weather news around the country.

Currently, the benefits of digital television – including high-definition and multicast programming – are available over-the-air only to a fraction of the viewing households in America: the very small minority who have purchased expensive digital television sets with built-in digital receivers. The introduction of new multicast services – by increasing choice and diversity in available programming – will undoubtedly stimulate consumers to invest in digital television sets, thereby helping the digital transition to progress. But over-the-air viewing is not enough – Congress and the FCC recognize that cable carriage is essential to the survival of a broadcast channel, particularly because most Americans likely will depend on subscription services such as cable for delivery of digital television signals.

Nevertheless, on February 10, the FCC is expected to rule that cable operators are not required to carry the free, digital multicast channels offered by television stations. Instead, cable operators – not subscribers – will be able to choose most of what consumers can watch. This action will deprive cable subscribers of the full benefits of the digital transition, block their access to new and diverse local programming and kill these blossoming new services before they even have a chance to take root.

The FCC's expected action will not serve the public's interest in maintaining a diverse and free over-the-air broadcast system or in fostering a consumer-friendly digital transition. Congress should act to promptly to prevent the FCC from taking these actions.

Yours truly,

A handwritten signature in black ink, appearing to read "Larry W. Mitchell", with a stylized flourish at the end.

Larry W Mitchell, CEO
American Corn Growers Association